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FOI DIGEST

The Freedom of Information Center
School of Journalism, University of Missouri

Capitol Hill Adds to Advertiser's Woes

Add to the stones cast from Capitol Hill on the advertiser:

A Civil Aeronautics Board examiner has ruled prize contests illegal for airlines. Awards in an essay contest were said to amount to refunding of portions of fares (which is apparently illegal).

Missile makers who buy space to talk about their weapons (the money seems to come from government under a broad contract) have been taken to task by a House Armed Services subcommittee.

A Federal Trade Commission examiner finds a flour milling firm "totally irrational in its approach to advertising, manifesting 'a firm conviction that (advertising) is an anti-competitive device.'"

Meanwhile, the biggest federal agency fly in the ad ointment—the Internal Revenue Service—continues to press for greater tightening of requirements for tax deductibility for "lobbying" (other side says "institutional" or "good will") advertising expenses.

The IRS would except from deduction benefits any advertising encouraging support or opposition for any legislation by members of a legislative body or attempting to influence the public in voting.

The Supreme Court at this time seems to limit denial of deduction benefits solely to advertising materials seeking to influence a public to which a legislature has referred an issue for advice.

Rep. Boggs (Louisiana) has introduced a bill that would amend the Internal Revenue Code to permit tax deductions from gross income of "expenses lawfully incurred in supporting or opposing or otherwise influencing legislation in the Congress or in a State legislature or in the legislative body of a county or other local governmental agency or in any submission of proposed legislation to the voters." (Bill H.R. 7123).

'Black Month for Turkish Press'

The promise of better government-press relations in Turkey expected last July has not been fulfilled, according to *IPI Report* (Sept. '59).

August proved a "black month for the Turkish press," with 60 newspapermen standing trial and receiving sentences of from 12 days to 22 months imprisonment. *Report* figures were good through August 15.

Access Legislation Boxscore

Alaska has joined states with meetings and records guaranteed open.

	States
With full guarantee	19
With open meetings only	4
With open records only	14
No legislation	13

Southern Publishers Tell Of 3 Fol Wins, 3 Losses

Annual meeting of the Southern Newspaper Publishers Association was told of three wins and three losses for freedom of information.

In the gain column the association's legislative committee listed a law allowing juvenile court judges in Tennessee to admit reporters and photographers into their courts at their own discretion; passage of an open records law in Georgia; and, also in Georgia, revocation of an executive agency order banning liquor advertising in certain cities.

The committee listed the following as losses: defeat of a reporter's privilege bill in Tennessee; defeat in West Virginia of an open records bill; and vote of the North Carolina House of Representatives to continue a rule permitting committees to go into executive session on majority vote.

Press Limited Coverage of Mr. K

Information was available to anyone who wanted to cover the Khrushchev visit and so many took part in the coverage that information was restricted rather than expanded. Khrushchev played to the press audience that was often reduced, in part, to following events via transistor radio.

(See "Fiasco at Coon Rapids," by Walter T. Ridder, Washington Bureau Chief, Ridder Publications, *E&P*, 10-3-59, p. 72.)

SAC Chief's Book Did Not Breach Security

Defense Secretary Neil McElroy has forbidden Lt. Gen. Thomas S. Power, chief of the Strategic Air Command, to publish *Design for Survival*, a book that charges the Eisenhower administration with money-saving intentions that may weaken the nation before the Russian threat.

Air Force headquarters and the Defense Department were agreed that the book which Random House was eager to publish did not breach security regulations.

A statement released by the office of Murray Snyder, assistant secretary of defense for public affairs, said publication was denied the general in line with "the established policy of the Department of Defense that commanders of major commands will not author books concerning their areas of responsibility while on active duty in those commands."

The House subcommittee on government information (Moss) is seeking further explanation. Senator Symington has listed at least 15 officers who have published about their command areas while still in command, among them being Dwight D. Eisenhower who wrote *Crusade in Europe* while serving as Army chief of staff.

Newsbroadcast Subcommittee Established by the Senate

A Senate subcommittee has been established (news release, 9-14-59) that will "investigate complaints alleging abridgment of freedom of communications in newscasts over radio and television."

Information on the subcommittee was released the same day President Eisenhower signed a bill exempting radio and television news programs from the equal time provisions of the Federal Communications Act (Sec. 315).

Under the bill equal air time need not be given political candidates in newscasts, news interviews, documentaries, or on-the-spot news coverage. Panel discussions, however, must continue to offer equal time.

No reason has been given why the newscast subcommittee (Senator Yarborough, Texas, chairman) was thought necessary. But late in September Rep. Oren Harris told a meeting of the Louisiana Association of Broadcasters that there is a "strong undercurrent of distrust of broadcasters . . ." among Congressmen who are watching how radio-TV performs with its greater freedom of action in political broadcasting.

N.Y. Editors Seeking Open Welfare Records

The New York Society of Newspaper Editors recently proposed an amendment to state welfare laws that would open records on written request and on the assurance that no identification of welfare recipients would be made except where criminality is the issue. The Citizens Public Expenditure Survey, the tax payers' organization, has joined the editors' effort.

The New York State Publishers Association voted in September to carry a fight to require publication of full lists of tax-exempt properties to the courts and, if necessary, to the legislature.

The action follows opinion of the attorney general that a short summary of property covered stipulations of the existing law.

Informal Censorship Is 'Most Difficult'

Earl Johnson in *UPI Reporter* (9-17-59):

"The censorship most difficult to get around is the informal kind that governments apply to the traditional sources of news. Dictatorships frequently enforce a discipline of silence on their functionaries and on their people that no reporter can break through. In my opinion this is often worse than official press censorship. It is a negation of the people's right to know what goes on in their own country as well as a denial of information to other countries. The Soviets are adept at clamping up and this is how we are really deprived of certain categories of news, or at least delayed in reporting it. Travel restrictions are another deterrent to proper coverage. Under these conditions (and they are not peculiar to the Soviets) the main problem is to gain access to the facts. Once this is done, finding ways to export the facts is not a major concern for an experienced hand."

Spain, Canada Widen Freedoms

A new Spanish press law in preparation is expected to lessen censorship in force since 1938. In the interests of public order, however, the government is empowered to censor and suspend publications and broadcasts and to detain people offending order.

Prime Minister John Diefenbaker is pushing for a bill of rights that will assure "for the first time in Canada's history that encroachments . . . will be denied under statute."

Quiet Victory at Osceola

A letter to the editor of the Osceola (Mo.) *St. Clair County Courier* protesting school board secrecy on salaries has led to the opening of board records in that town.

The *Courier's* position was that the records should be made available to inspection, though it was sympathetic to the school board for investigation showed a wide variation of attitudes over the state toward policies of information school boards should be expected to follow.

Courier editorials sparked reader interest. One citizen journeyed to the state capitol to inspect salary figures and concluded that in covering up these figures under plea of teacher privacy the superintendent was, in fact, concealing inequities in salaries.

Twelve citizens (Osceola's population is 1,082) met with the school board. Though there were "points of sharp discussion," the school board, with the approval of the superintendent of schools, voted 4-1 to make school records available for inspection (10-6-59).

"We think," said the *Courier* of the quiet victory, "the board acted in good faith throughout. . . . from now on Osceola school patrons should feel even more impelled to do what they best can to support their schools. . . ."

Pleased but saturated with letters on the problem, the *Courier* said it would publish no more "unless they have something of great importance to convey."

'In the Public Interest'

The term "public interest" can serve many causes. Take the example of HB 366 which the Michigan House of Representatives recently passed. Originally, the bill stated: "All public meeting of the board (referring to meetings of boards of education) shall be public and no person shall be excluded therefrom. The board may hold executive sessions, but no final action shall be taken at any executive session."

The Senate Education Committee made it read: "The board may hold executive sessions **WHENEVER PUBLIC INTEREST SHALL REQUIRE.**" This would permit final action to be taken at closed meetings—under the guise of "public interest."

Outdoor Advertising Gets Break With Last-Minute Gas Tax Bill

Outdoor advertising has had a few friends of late years and these friends were not in the Department of Commerce which last year spelled out the rules for advertising passed by Congress that virtually banned billboards from the roads.

The Outdoor Advertising Association of America and its Washington lobby has largely reversed last year's rule. Its chance came in the last-minute bill to raise the gasoline tax. Onto the bill went an amendment leaving the billboard question up to individual municipalities for municipal areas. With no time for public hearings, the bill as amended swept through to law by a 44-39 vote.

Kansas City Making Drive Against Obscene Magazines

Kansas City has joined the list of those cities conducting drives against obscene magazines. A series of arrests were made early in October in an effort to clear stands of literature considered obscene by the police. Annual meeting of the Future Farmers of America, starting October 12, spurred the effort.

Eight clerks in book and drug stores were arrested October 9, one in a store of the city's largest drug chain.

John King, director of welfare, said citizens were bringing in or calling offending magazines to his attention. "We are getting a one-day evaluation on these magazines," King said. He did not say who the evaluators were.

Pocket books, because they require more time, are not presently being checked.

With Canon 35

Rhode Island's superior court judges voted to continue the ban against photographic and radio-TV coverage of courts because, according to one jurist, removal of the restriction would be "detrimental to the administration of justice."

The National Association of Claimants' Compensation Attorneys—over 7,000 strong—has voted for abolition of Canon 35.

What to do about a "camera bug" judge who pursues his hobby from the bench was a question confronting the Conference of California Judges at their September meeting in San Francisco. What the judges did is not known.

Articles and Books

—“Correspondents Attack Israeli Censorship.” *Overseas Press Bulletin*, August 22, 1959 (Vol. 14, No. 34). pp. 1 ff.

Israel's newspaper editors aroused against a government censorship regulation which may be only the forerunner of other measures affecting the freedom of the press. The new regulation, unlike other military censorship practiced for national security reasons, drops a curtain over immigration facts and figures.

—“Freedom of the Press.” (A Panel Discussion). *IPI Report*, August 1959 (Vol. 8, No. 4). pp. 7-11.

At the 8th General Assembly of the IPI in West Berlin, a panel of representatives from South Africa, Ceylon, and West Germany discussed press freedom in their countries. Open discussion followed, with comments from representatives of Singapore, Turkey, Indonesia, and other countries.

—“No Matter What Congress Does.” *The Iowa Publisher*, August 1959. pp. 6-7.

Says issues raised by “equal time” controversy will survive despite Congressional action. Much public ill feeling toward all news media with respect to fair and equal treatment of political parties and individual candidates. “There is every reason why the press in the U.S. should begin thinking in terms of how fair and equal treatment can be assured and of public attitudes toward its performance, instead of taking refuge behind the fact that, up to now, it has found somebody to pull it out of jams like the one created by the FCC ruling in the Daly case.”

Barnes, Arthur M. “Access to Information.” *The Iowa Publisher*, September 1959 (Vol. 31, No. 9). pp. 3 ff.

The results of a survey made in Iowa last winter by the State University of Iowa School of Journalism. The broadest and safest generalization which emerges from the survey is this: While some newspapers and broadcasting stations may be having acute individual access problems, there is no evidence of universal difficulty at any level of government, with any particular office or agency, or by any medium. Three-fourths of the replies reported no problem at any level — city, county, or state.

Bryan, Frederick vanPelt. “Grove Press v. Postmaster of City of New York.” *Evergreen Review*, Summer 1959 (Vol. 3, No. 9). pp. 37-68.

Complete text of the decision rescinding Post Office Department's denial of the mails to the Grove Press (unexpurgated) edition of *Lady Chatterly's Lover*.

Gaspard, Armand. “Mission to Singapore.” *IPI Report*, September 1959 (Vol. 8, No. 5). pp. 1-5.

Report of the IPI observer who made an on-the-spot investigation of the press situation in Singapore as a “preventive” action. Outcome: “Nothing in the attitude of the new regime leads one to believe that infringement of freedom of the press is imminent. Nevertheless, the IPI should watch the situation closely.”

Gerachty, Bryan. “Television Covers Maine Legislature.” *The Quill*, October 1959 (Vol. XLVII, No. 10). pp. 11 ff.

WCSH-TV successfully covered Maine's ninety-ninth legislative session after passage of “Right to Know” bill, which guarantees right to see.

Hennings, Thomas C. Jr. “Constitutional Law: The People's Right to Know.” *Congressional Record*, July 30, 1959. pp. 13415-13420.

More from the Senator on executive privilege, including comments on the “specter” raised by President Eisenhower when he signed the FoI bill amending section 161 of the Revised Statutes (5 U.S.C. 22) which makes it clear that the statute does not authorize executive department heads to withhold information. The “specter” is the President's statement that “the bill is not intended to alter the existing power of the head of an executive department to keep appropriate information or papers confidential in the public interest.” (Reprinted from the *ABA Journal*, July 1959 (Vol. 45), p. 667.)

Loffler, Martin. “The Present Legal Position of the Press in West Germany.” *Gazette*, 1959 (Vol. V, No. 1). pp. 13-29.

Discussion includes: freedom of the press and the protection of civil rights; the threatened shift of weight; the “Magna Charta” of the press imperilled; the commercialization of defamation of character; increased protection against defamation of character as “hidden censor”; the successful defense; the revised Draft Bill; denial; the much discussed general clause; Press Tribunals; the promise of the Minister of the Interior; the exemplary press laws of Hessen; the confiscation of papers in Hessen; decision about the precedence of press laws; topical press law problems; the unpurged compulsion to give evidence against the press; the new cartel law; self control; the jurisprudence of press law.

Mathews, William R. “A Call for Quick

Action.” *ASNE Bulletin*, September 1, 1959 (No. 423). p. 10.

“When any bureaucracy created by Congress successfully defies Congress in refusing to account for its conduct, the time has come for the press of the nation to act.” Mathews says editors must cooperate with Congress in fight to open records of government agencies.

Miller, Henry. “Defence of the Freedom to Read.” *Evergreen Review*, Summer 1959 (Vol. 3, No. 9). pp. 13-20.

A letter to a lawyer defending a Miller book in an obscenity hearing. In a plea for tolerance, Miller argues it is not what happens to the censored that concerns him but what happens to the censor.

Mollenhoff, Clark R. “New Pattern Develops in Fight Against the Broad Claim of Executive Privilege.” *ASNE Bulletin*, September 1, 1959 (No. 423). p. 11.

“New pattern” is the attachment to bills of amendments making records of the executive branch available to the auditors of the General Accounting Office and properly authorized committees and subcommittees of Congress.

Seeger, Murray. “Open Door Policy in Ohio.” *The Quill*, September 1959 (Vol. XLVII, No. 9). pp. 15-16.

Reporters in Ohio are enjoying the open door policy introduced by Gov. Michael V. DiSalle. His news policy includes: frequent press conferences, weekly cabinet meetings open to the press, use of direct materials instead of handouts, a press secretary who is inconspicuous, accessibility between formal sessions, and open meetings with outside groups.

Shayon, Robert Lewis. “A Deadly Calm in the Windy City.” *Saturday Review*, September 5, 1959 (Vol. XLII, No. 36). p. 30.

Mr. Shayon says the House Legislative Oversight subcommittee should be investigating the FCC itself, not such side issues as rigged TV shows in New York. In Chicago, for example: “Not merely the spirit but the very letter of the Communications Act is being ignored there within the full cognizance of the FCC. NBC's and CBS's TV and radio stations in Chicago have been operating *without licenses* since last December.” Many have clamored for action, but the FCC has made no move in that direction. Mr. Shayon agrees with Professor Bernard Schwartz, who says in his book *The Professor and the Commissions* that “regulation in the public interest (has) become fundamentally a fiction to mask the reality of regulation in the interest of those being regulated.”

FBI Hampers New York Post Series on J. Edgar Hoover

New York *Post* publisher Dorothy Schiff has charged the Federal Bureau of Investigation (AP story, 10-7-59) with "efforts to interfere with the freedom of the press" encountered in the course of gathering material for an article series on J. Edgar Hoover.

Mrs. Schiff said reporters were refused interviews by Hoover, that his assistants and members of the FBI were ordered to stay clear of *Post* personnel, that "key congressmen" were interviewed and only later, apparently intimidated, asked that their comments be considered off the record, and, finally, that a *Post* reporter said he had been warned last April that the FBI had begun an investigation of Mrs. Schiff and "a young female member of my family."

Executive Agreement With Liberia Was Kept Secret for Two Months

The United States signed an "executive agreement" with Liberia on July 8 agreeing to assist that country "in the event of aggression or the threat of aggression." The agreement was kept secret for two months.

"Why the agreement was kept a secret is unclear," . . . said *The Reporter* (10-1-59), which, looking on it as a piece of great-power meddling that could invite Russian duplication, further stated, "Why we ever entered into such an agreement in the first place is even more unclear."

ACLU in Chicago Case

A suit has been filed in Chicago that seeks to force the Post Office Department to deliver to the editor of a sociology journal magazines mailed her from behind the Iron Curtain.

The suit, backed by the American Civil Liberties Union, is to test the legality of Post Office Department censorship, permanent withholding, sometimes burning of foreign publications practiced since 1950 with no authorization other than, apparently, a departmental interpretation of the 1938 Foreign Agents Registration Act.

Not until last December were intended receivers of materials held by the Post Office Department notified that materials were being held. Delivery is presently made upon signing of a form stating that the materials will not be used for "dissemination" and that the materials were "ordered, subscribed to or desired" by the receiver.

The University of Illinois Trustees have revoked a 59-year-old ban on speeches by political candidates on campus.

Congress Lessens Committee Secrecy

Congress closed 30 per cent of its committee meetings in 1959, according to a *Congressional Quarterly* survey (10-16-59), to rack up its best showing since 1953, the year the *Quarterly* commenced to keep score.

The magazine records the open-closed records of Senate, House, and joint committees for the 1957, 1958, and 1959 sessions. In overall figures for the recent session, 433 of 1,350 Senate committee meetings were closed, 434 of 1,639 House committee meetings, and 73 of 163 joint meetings were behind closed doors.

Percentages of meetings closed over the past seven years are: 1953, 35 per cent; 1954, 41 per cent; 1955, 36 per cent; 1956, 36 per cent; 1957, 34 per cent; 1958, 34 per cent; and 1959, 30 per cent.

House Votes to Require Accounting of Travel Funds

A House administration subcommittee has voted by an "overwhelming" margin to require members of Congress and administration officials to account publicly for any federal funds spent on trips abroad. The individual reports would list the spending of government-owned dollars and foreign currencies and would identify all relatives in the travel party.

Filler

As of late September V. M. Newton, chairman of the SDX FoI committee, had no answer to his July 30 letter to President Eisenhower in which Newton delineated abuses of "the so-called doctrine of executive privilege" and asked for a change in the administration's attitude toward the people's right to know.

Pennsylvania has a new movie censorship code replacing one found unconstitutional. It provides for a three-member board empowered to ban obscene and crime-inciting pictures for youths.

Information hard come by in Arizona is that on birth control. The 58-year-old law forbidding spread of such information seems due to be reconsidered by a court.

What Makes a Ceiling For Flying Admen?

The trials and tribulations of advertising have been discussed elsewhere in this issue of the *Digest*. Now add to the adman's troubles the decision of the Long Island, N.Y., State Park Commissioner Robert Moses to claim control over Jones Beach "as high as you can go."

This claim was made after an airplane pilot named Jones allegedly chose the sky over Jones Beach as the background for his advertising sign. The Federal Aviation Agency, who, Jones says, gave him permission, joins Jones in questioning the validity of the Commissioner's claim.

Commissioner Moses has had other jurisdictional disputes: he kept Shakespeare out of New York City's Central Park for most of last summer, and has had disputes over parking lots, housing developments, bridges, waterways, and tunnels. And most of his services are performed for no salary.

Skywriting advertisers face a problem in seeking to avoid trespassing. How high can they go to avoid jurisdictional dispute with Commissioner Moses? — certainly not the moon.

The Illinois Press Association has criticized Governor William G. Stratton's veto of a bill that would have penalized city treasurer delinquency in publishing annual reports by withholding of taxes due until publication was made.

Vetoed in August by Ohio's Governor DiSalle was a bill amending the present law relative to nuisances which would have removed the existing exemption from its application of publications entered as second class by the Post Office Department.

The closed office door of Reno's mayor is now open, but *E&P* reports (9-19-59) all but formal council meetings are off-bounds to the press at the wish, primarily, of newly elected councilmen.

Vance Trimble, Scripps-Howard reporter, has lost a suit to force Congress to reveal where its payroll monies are spent.

Some information is very free in Formosa. Two Chinese companies are advertising a 1959 Encyclopedia Britannica, which they have copied by the offset process, for \$36.

The dean of students at the University of California at Berkeley has ruled student groups may not take stands on off-campus issues. The ruling is being challenged by the regional American Civil Liberties Union group.